ficially drain his land and thereby deprive an adjoining proprietor of surface water. An upper owner may not, by artificial drainage, discharge a body of surface water upon lands below. *Rhoads* v. *Davidheiser*, 133 Pa. St. 226. But he has an absolute right to surface water before it reaches the lower owner. *Broadbent* v. *Ramsbotham*, 11 Exch. Rep. 602. Even in jurisdictions which limit the owner's right in percolating waters to reasonable user, artificial drainage thereof for purposes of improvement is lawful, though it deprive a neighbor of his supply. *Ellis* v. *Duncan*, 21 Barb. (N. Y.) 230. These last two analogies tend to support the present decision, whether we regard the defendant's right to surface water as absolute or as restricted to reasonable user.

WILLS — EXECUTION — SIGNATURE OF TESTATOR AT END OF WILL. — In a will drawn upon a printed form consisting of one page, a sentence which was incomplete at the end of the space provided for bequests was finished by the testator upon the back of the form, without words or characters of reference to connect the two parts. The will was signed and attested at the bottom of the first page. *Held*, that the words on the back should be read as an interlineation, and the whole, as thus read, admitted to probate. *In the Will of Bull*, 1905 Vict. L. Rep. 38.

The testator's signature to a will need not necessarily be at its physical termination, if it follows the close of the connected literary sense. *In the Goods of Kimpton*, 3 Sw. & Tr. 427. Thus, by appropriate words or marks, a portion necessary to complete the will may be introduced into the body, although in location upon the paper it follows the signature. *In the Goods of Birt*, L. R. 2 P. & D. 214; *Baker's Appeal*, 107 Pa. St. 381. In requiring the signature at the end, the English and Victorian acts differ from the American statutes by the addition of 15 and 16 Vict., c. 24, which has been regarded as permitting the court to consider what the testator intended to be the end of his will. See *Matter of Conway*, 124 N. Y. 455. Doubtless that amendment did temper the English rule, but it still provides that no part of the will shall follow the signature, and seems insufficient to explain this case without recourse to the principle of incorporation by reference. That, however, requires such words or marks within the will as to identify the outside writing with certainty. *In the Will of Ellen Wyatt*, 21 Vict. L. Rep. 571. It seems too ample an extension of the principle to permit mere continuity of sense to furnish that reference.

WITNESSES — IMPEACHMENT — PREVIOUS HYPNOTISM OF WITNESS. — *Held*, that an admission by a witness on cross-examination that she had three times been hypnotized by the prisoner is admissible as affecting her credibility. *State* v. *Exum*, 50 S. E. Rep. 283 (N. C.).

The effect of hypnotism upon witnesses presents a new and interesting problem. In its analysis the distinction should be clearly kept between the condition of the witness when in a state of hypnosis and that when acting from suggestions placed during a previous state of hypnosis. In the former, his senses are necessarily so much in abeyance that detection would be inevitable; and as his mind is under the control of another, he should be held incompetent. *Cf. Worthington & Co.* v. *Mencer*, 96 Ala. 310. But if the witness is acting from suggestions placed during a previous state of hypnosis, his independence is taken away only to the extent of such suggestions. To determine his competency, therefore, the judge must find whether it is probable that he has been placed under hypnotic control at a time and under circumstances when suggestions could have been and were placed as to the facts in the case. *Cf. Bartlett* v. *Smith*, 11 M & W. 483. If this is probable, as the witness would follow out suggestions so placed irrespective of the actual facts, he should be held at least incompetent to testify in behalf of the party responsible for his condition.

BOOKS AND PERIODICALS.

I. LEADING LEGAL ARTICLES.

PARTIAL REVOCATION OF A WILL BY OBLITERATION. — In a recent article the question whether or not a will may be partially revoked by obliteration is discussed, and the few cases in point reviewed. *The Partial Revocation of a Will by Obliteration*, Anon., 9 L. Notes (N. Y.) 5 (April, 1905). In those jurisdictions where the English Statute of Frauds has been followed, it is provided

that a will, "or any clause thereof," may be revoked by obliteration. In the application of this provision a doubt has arisen whether an obliteration should be considered ineffectual which increases an estate already given, or causes a different disposition of it, on the ground that it is, in effect, an attempt to dispose of property by will without the formalities of execution and attestation. The authorities bearing upon the question are inconsistent and confusing. According to one view, suggested by two English decisions, a will may be partially revoked by obliteration when the effect is to decrease a gift theretofore made, but not when it is to enlarge such a gift. *Cf. Larkins* v. *Larkins*, 3 Bos. & Pul. 16; *Swinton* v. *Bailey*, 4 App. Cas. 70. Thus upon a devise to "A and his heirs forever" an obliteration of the words "and his heirs forever" would operate to give a life estate to A; but a blotting out of the words "and B as tenants in common" in a devise to "A and B as tenants in common" would not be effective. A more radical position was taken in a Maryland case where the court, construing the word "clause" to mean an entire subdivision of the will, held that the obliteration must be of the whole subdivision, for otherwise there would be an unattested alteration of the disposition of the property. *Eschbach* v. *Collins*, 61 Md. 478. Both these views are open to the objection that they would permit revoked legacies and devises to pass under a residuary clause, though the result thereby reached would be that which they seek to avoid. A later American decision, recognizing this logical difficulty, held that there could be no partial revocation by obliteration where the effect would be to alter a bequest either to a residuary or to a specific legatee. *Appeal of Miles*, 68 Conn. 237. Finally, Massachusetts has adopted the view that there may be partial revocation regardless of its effect upon the disposition of the estate. *Cf Bigelow* v. *Gillott*, 123 Mass. 102.

It seems, as the writer observes, that there can be but two sound doctrines. Either partial revocation by obliteration must be held not permissible, or it must be allowed no matter what its effect upon the disposition of the estate. The former of these doctrines could be maintained only in those states where the statute does not expressly permit partial revocation; and it could not apply to a case where, owing to the absence of a residuary clause, the obliteration would not alter the effect of the remaining portions of the will upon the disposition of the testator's property. For the other view there is much to be said. It is not only simple and easy of application, but it seems also consistent with a reasonable construction of the statutes requiring execution of a will in the presence of witnesses. These statutes are not concerned with the ultimate effect of the will upon the distribution of the testator's estate. He may by nontestamentary acts dispose of his property without regard to the terms of his will, or he may by an unattested act of cancellation revoke it *in toto*. The purpose of the statutes is merely to make certain that the words, as such, contained in the document are those of the testator. The will itself is of no effect until the testator's death. Until then it is nothing but a mere substance which may be dealt with by cancellation or obliteration at the pleasure of the maker.

POWER OF THE SENATE TO AMEND A TREATY. — When the Senate amended the Hay-Pauncefote treaty before ratification, it was the object of some criticism on the ground that it had arrogated to itself a power foreign to its constitutional rights. A similar position is taken in a recent vigorous attack on its action in amending the arbitration treaties. *The Power of the Senate to Amend a Treaty*, by B. M. Thompson, 3 Mich. L. Rev. 427 (April, 1905). The treaty-making power is defined in Art. II. § 2, of the Constitution as follows: "He (the President) shall have the power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur." Mr. Thompson contends that the power given to the Senate by this provision, like that conferred upon it to concur in the appointment of federal officials, is one of veto purely, giving no right to amend. This position has been charac-